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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,529	02/27/2004	Heinz Plank	LVIP:110US	9269

7590 05/20/2005

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EXAMINER

NAGPAUL, JYOTI

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,529

Applicant(s)

PLANK, HEINZ

Examiner

Jyoti Nagpaul

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/27/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-13** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: input section, a supply section, a treatment section and a transport mechanism. It is unclear as to how the apparatus is operable without the listed essential elements.

### ***Claim Interpretation***

3. The following **claims 1-13** drafted by the examiner are considered to distinguish patentably over the art of record in this application. The following suggestions are presented to applicant for consideration.
4. **Claims 1-13** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### **IN THE CLAIMS:**

**Claim 1**, line 1, after "comprising:", insert –an input section, a supply section, and a treatment section; and a transport mechanism which travels back and forth between the supply section and the treatment section in order to transport at least one transport

container from the supply section to the treatment section or from the treatment section to the supply section--.

**Claim 1**, line 2, after "plate", insert -- positioned in said treatment section--.

**Claim 1**, line 6, before "transport container", delete "a" and insert --each--.

**Claim 1**, line 8, before "a first and a second station", insert --said supply section comprising--.

**Claim 1**, line 9, change "." to --,--

**Claim 1**, line 9, after "beneath it.", insert --wherein in the treatment section, the transport mechanism lifts the transport container in such a way that the liquid droplets present on the slide wet the tissue sections provided on the one lower side of the carrier plate--.

**Claim 3**, line 2, after "during", delete "a by"

**Claim 7**, line 1, change "6" to --1--

**Claim 7**, line 1, after "each", insert --of the --.

**Claim 7**, line 1, after "sections", insert --are--.

**Claim 7**, line 2, after "plate", insert --and--.

**Claim 7**, line 2, change "magnets" to --magnet--.

**Claim 8**, line 1, change "5" to --1--.

**Claim 10**, line 1, change "5" to --1--.

**Claim 11**, line 1, change "5" to --1--.

**Claim 11**, line 1, delete "station" and insert --supply--.

**Claim 11**, line 1, after "section", insert --is enclosed and--.

**Claim 12**, line 1, change "5" to -1--.

**Cancel claims** 5-6 and 14-26

5. The following is an examiner's statement of reasons for allowance: Prior art fails to teach or fairly suggest a carrier plate on which the thin tissue sections are affixed in a defined pattern and at least one slide on which a treatment liquid is applied in the form of droplets, therein the arrangement of the droplets on the slide corresponds to the arrangement of the thin tissue sections on the carrier plate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN

  
Jill Warden  
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